

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re: _____) Chapter 11
) _____
EASTERN LIVESTOCK CO., LLC, et al.,) Case No. 10-93904-BHL-11
) _____
Debtor. _____) _____

**TRUSTEE'S RESPONSE TO MOTIONS TO EXPEDITE HEARING
ON TRUSTEE'S REPORT AND MOTIONS TO STRIKE**

James A. Knauer, chapter 11 trustee ("Trustee") for Eastern Livestock Co., LLC, respectfully opposes First Bank's and Superior's June 22 motions for expedited hearing [Dkt. 1207, 1208]. The Trustee believes that the motions and objections addressing the Trustee's June 5, 2012 Report [Dkt. 1166] are best considered during the August 20 omnibus hearing and that no imperative reason exists for the Court to reconsider and rescind its prior scheduling notice [Dkt. 1188]. For the following reasons, the motions to expedite the hearing should be denied:

1. The Trustee's Report detailed the Hoover Hull investigation and the Trustee's professional judgment concerning various claims the Trustee could assert against Fifth Third on behalf of the Debtor's estate. The Trustee also reported his intention shortly to propose and recommend a chapter 11 plan and accompanying disclosure statements. It is unlikely that the Trustee's proposal will be finalized and filed in sufficient time for all interested parties to review it, ask questions of the Trustee, and present written responses prior to the July 9, 16 and 19 dates suggested in First Bank's motion.

2. The Court's scheduling notice set an objection date regarding the Trustee's Report for three days prior to the August 20 hearing. Additionally, S.D. Ind. Local Rule 7-1, incorporated in S.D. Ind. Bankr. Local Rule B-9014-1, sets a default deadline of July 5 to

respond to Superior's motion to strike the Trustee's Report and July 9 as the default date for responses to Superior's most recent supplemental objection [Dkt. 1206]. Given the number of parties interested in these issues, it is important that they all have ample time to consider the arguments and, if appropriate, prepare written submissions.

3. The main prejudice that First Bank claims it will suffer if the hearing is not expedited is a time crunch to attempt to pursue claims derivatively and a concern that creditors may be compelled to accept the Trustee's proposed plan because of limited time available to remedy First Bank's and Superior's complaints about the Report in advance of a December 28, 2012 statute of limitations deadline. Motion ¶¶2-4 [Dkt. 1207]. The Trustee does not agree that First Bank or creditors are truly hampered whether the hearing occurs in July or in August. In part, this is demonstrated by the fact that First Bank has already launched its own claims against Fifth Third Bank in Ohio alleging all manner of state law RICO and common law claims.

4. Rescheduling the current hearing would also be an issue. Due to other cases and commitments that cannot be moved, the Trustee cannot participate in a hearing in this Court on July 9. Additionally, Kevin Toner cannot participate in a hearing on July 16 due to an oral argument in Ripley Circuit Court, and Kevin Toner and Terry Hall cannot participate on July 19 due to a previously scheduled mediation in Indianapolis and meetings in Minneapolis.

5. At a minimum, any hearing on the motions to strike requires the participation of Jim Knauer, the author of the Report at issue. Moreover, because the Report and the proposed plan concern so many creditors and other parties, sufficient notice and an opportunity to participate in the hearing is very important. Those needs are best served by leaving the current hearing schedule unchanged.

WHEREFORE the Trustee respectfully requests the Court to deny the motions to expedite a hearing on the Trustee's Report and to take up these issues as currently scheduled during the August 20, 2012 omnibus hearing.

Respectfully submitted,

FAEGRE BAKER DANIELS, LLP

By: /s/ Kevin M. Toner

Kevin Toner (#11343-49)
Harmony Mappes (# 27237-49)
300 N. Meridian Street, Suite 2700
Indianapolis, IN 46204-1782
Telephone: (317) 237-0300
Facsimile: (317) 237-1000
kevin.toner@faegrebd.com
harmony.mappes@faegrebd.com

Counsel for James A. Knauer, Chapter 11 Trustee

CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt
davidabt@mwt.net

C. R. Bowles, Jr
cbowles@ bgdlegal.com

John Hunt Lovell
john@lovell-law.net

Mark A. Robinson
mrobinson@vhrlaw.com

Jeffrey R. Erler
jeffe@bellnunnally.com

Edward M King
tking@fbtlaw.com

Randall D. LaTour
rdlatour@vorys.com

John R. Carr, III
jrciii@acs-law.com

Bret S. Clement
bclement@acs-law.com

Daniel J. Donnellon
ddonnellan@fclaw.com

Stephen A. Weigand
sweigand@fclaw.com

John Frederick Massouh
john.massouh@sprouselaw.com

John W. Ames
james@bgdlegal.com

Robert Hughes Foree
robertforee@bellsouth.net

Kim Martin Lewis
kim.lewis@dinslaw.com

Jeremy S Rogers
Jeremy.Rogers@dinslaw.com

Ivana B. Shallcross
ishallcross@ bgdlegal.com

Deborah Caruso
dcaruso@daleeke.com

Meredith R. Thomas
mthomas@daleeke.com

William Robert Meyer, II
rmeyer@stites.com

Allen Morris
amorris@stites.com

Charles R. Wharton
Charles.R.Wharton@usdoj.gov

James Bryan Johnston
bjtexas59@hotmail.com

James T. Young
james@rubin-levin.net

David L. LeBas
dlebas@namanhowell.com

Judy Hamilton Morse
judy.morse@crowedunlevy.com

John M. Thompson
john.thompson@crowedunlevy.com

Jessica E. Yates jyates@swlaw.com	John Huffaker john.huffaker@sprouselaw.com	Matthew J. Ochs matt.ochs@moyewhite.com
Laura Day Delcotto lidelcotto@dlgfirm.com	Kelly Greene McConnell lisahughes@givenspursley.com	T. Kent Barber kbarber@dlgfirm.com
Ross A. Plourde ross.plourde@mcafeetaft.com	Walter Scott Newbern wsnewbern@msn.com	Kirk Crutcher kcrutcher@mcs-law.com
Todd J. Johnston tjohnston@mcllp.com	Timothy T. Pridmore tpridmore@mcllp.com	Theodore A Konstantinopoulos ndohbky@jbandr.com
Karen L. Lobring lobring@msn.com	Sandra D. Freeburger sfreeburger@dsf-atty.com	Lisa Koch Bryant courtmail@fbhlaw.net
Elliott D. Levin edl@rubin-levin.net	John M. Rogers johnr@rubin-levin.net	John David Hoover jdhoover@hooverhull.com
Sean T. White swhite@hooverhull.com	Robert H. Foree robertforee@bellsouth.net	Sarah Stites Fanzini sfanzini@hopperblackwell.com
Michael W. McClain mike@kentuckytrial.com	William E Smith wsmith@k-glaw.com	Susan K. Roberts skr@stuartlaw.com
James Edwin McGhee mcghee@derbycitylaw.com	Thomas C Scherer tscherer@binghamchale.com	David A. Laird david.laird@moyewhite.com
Jerald I. Ancel jancel@taftlaw.com	Jeffrey J. Graham jgraham@taftlaw.com	Trevor L. Earl tearl@rwsvlaw.com
David Alan Domina dad@dominalaw.com	Kent A Britt kabritt@vorys.com	Joshua N. Stine jnstine@vorys.com
Jill Zengler Julian Jill.Julian@usdoj.gov	Jeffrey L Hunter jeff.hunter@usdoj.gov	Amelia Martin Adams aadams@dlgfirm.com
Michael Wayne Oyler moyer@rwsvlaw.com	Jason W. Cottrell jwc@stuartlaw.com	Robert A. Bell rabell@vorys.com
James E. Rossow jim@rubin-levin.net	James B. Lind jblind@vorys.com	Melissa S. Giberson msgiberson@vorys.com
Steven A. Brehm sbrehm@bgdlegal.com	Anthony G. Raluy traluy@fbhlaw.net	Christopher E. Baker cbaker@hklawfirm.com
James M. Carr james.carr@faegrebd.com	Jack S. Dawson jdawson@millerdollarhide.com	Dustin R. DeNeal dustin.deneal@faegrebd.com
Shawna M. Eikenberry shawna.eikenberry@faegrebd.com	Terry E. Hall terry.hall@faegrebd.com	Jay Jaffe jay.jaffe@faegrebd.com
James A. Knauer jak@kgrlaw.com	Erick P. Knoblock eknoblock@daleke.com	Harmony A. Mappes harmony.mappes@faegrebd.com
Christie A. Moore cmoore@bgdlegal.com	Shiv Ghuman O'Neill shiv.oneill@faegrebd.com	Wendy W. Ponader wendy.ponader@faegrebd.com
Jeffrey E. Ramsey jramsey@hopperblackwell.com	Eric C. Redman ksmith@redmanludwig.com	Joe T. Roberts jratty@windstream.net
Joseph H. Rogers jrogers@millerdollarhide.com	James E. Smith jsmith@smithakins.com	Robert K. Stanley robert.stanley@faegrebd.com
Andrew D. Stosberg astosberg@lloydmc.com	Kevin M. Toner kevin.toner@faegrebd.com	U.S. Trustee ustpregion10.in.ecf@usdoj.gov
Andrea L. Wasson andrewawassonatty@gmail.com	Christopher M. Trapp ctrapp@rubin-levin.net	

I further certify that on June 25, 2012, a copy of the foregoing pleading was served via electronic mail transmission on the following:

Ashley S. Rusher
asr@blancolaw.com

Darla J. Gabbitas
darla.gabbitas@moyewhite.com

/s/ Kevin M. Toner